

INSURANCE CODE

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES

SUBTITLE I. SPECIALIZED COVERAGES

CHAPTER 1651. LONG-TERM CARE BENEFIT PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1651.001. APPLICABILITY OF CHAPTER. (a) Notwithstanding Section 101.053(b)(5) and subject to Subsection (b), this chapter applies only to:

(1) an individual long-term care benefit plan that is delivered or issued for delivery in this state;

(2) a group long-term care benefit plan that is:

(A) delivered or issued for delivery in this state; and

(B) issued to an eligible group as described by Subchapter B, Chapter 1251;

(3) a certificate issued under a group long-term care benefit plan issued to an eligible group as described by Subchapter B, Chapter 1251, if the certificate is delivered or issued for delivery in this state, regardless of the place where the plan is delivered or issued for delivery; and

(4) an evidence of coverage delivered or issued for delivery in this state for long-term care.

(b) This chapter applies only to a policy, certificate, or evidence of coverage that is issued by:

(1) a capital stock insurance company, including a life, health and accident, or general casualty insurance company;

(2) a mutual life insurance company;

(3) a mutual assessment life insurance company, including a statewide mutual assessment corporation, local mutual aid association, and burial association;

(4) a mutual or mutual assessment association, including an association subject to Section 887.101;

(5) a mutual insurance company other than a life insurance company;

(6) a mutual or natural premium life or casualty

insurance company;

- (7) a fraternal benefit society;
- (8) a Lloyd's plan insurer;
- (9) a reciprocal or interinsurance exchange;
- (10) a nonprofit medical, hospital, or dental service corporation, including a company subject to Chapter [842](#);
- (11) a stipulated premium company;
- (12) a health maintenance organization under Chapter [843](#); or
- (13) another insurer required to be licensed by the department.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.002. EXEMPTIONS. This chapter does not apply to:

(1) a certificate that is delivered or issued for delivery in this state under a single employer or labor union group policy that is delivered or issued for delivery outside this state; or

(2) a benefit plan that is not advertised, marketed, or offered as a long-term care benefit plan or nursing home benefit plan.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.003. LONG-TERM CARE BENEFIT PLAN DEFINED. (a) In this chapter, "long-term care benefit plan" means an insurance policy or group certificate, or rider to the policy or certificate, or evidence of coverage issued by a health maintenance organization subject to Chapter [843](#), that is advertised or marketed as providing, or offered or designed to provide, coverage for not less than 12 consecutive months for each covered individual on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital.

(b) The term includes a plan or rider, other than a group or individual annuity or life insurance policy, that provides for

payment of benefits based on cognitive impairment or the loss of functional capacity.

(c) The term does not include an insurance policy, group certificate, or evidence of coverage that is offered primarily to provide:

(1) basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specified disease or specified accident coverage, or limited benefit health coverage; or

(2) basic or single health care services.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.004. RULES. (a) In addition to other rules required or authorized by this chapter, the department may adopt reasonable rules that are necessary and proper to carry out this chapter.

(b) Rules adopted under this section must include requirements no less favorable than the minimum standards for long-term care benefit plans adopted in any model laws or regulations relating to minimum standards for benefits for long-term care benefit plans and in accordance with all applicable federal law.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.005. CONSTRUCTION OF CHAPTER. This chapter may not be construed to enlarge the powers of an entity listed in Section [1651.001](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.006. CONFLICTS WITH OTHER PROVISIONS. This chapter prevails to the extent of any conflict with another provision of this code.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

SUBCHAPTER B. BENEFIT PLAN STANDARDS

Sec. 1651.051. MINIMUM STANDARDS. (a) The commissioner by rule shall establish:

(1) specific standards for provisions of long-term care benefit plans; and

(2) standards for full and fair disclosure setting forth the manner, content, and required disclosures for the marketing and sale of those benefit plans.

(b) The standards are in addition to and must be in accordance with:

(1) applicable laws of this state, including Chapter [1201](#);

(2) applicable federal law; and

(3) any rules, regulations, and standards required by federal law.

(c) The standards must address:

(1) terms of renewability;

(2) initial and subsequent conditions of eligibility;

(3) nonduplication of coverage;

(4) coverage of dependents;

(5) coverage of parents of the insured or enrollee and parents of the spouse of the insured or enrollee;

(6) preexisting conditions;

(7) termination of insurance;

(8) continuation or conversion;

(9) probationary periods;

(10) benefit limitations, exceptions, and reductions;

(11) elimination periods;

(12) requirements for replacement;

(13) recurrent conditions;

(14) definitions of terms; and

(15) inflation protection.

(d) The standards may:

(1) establish standard claim forms;

(2) establish standard benefits for:

(A) skilled nursing care;

(B) intermediate nursing care;

(C) custodial care; and

(D) home health care;

(3) require coverage for skilled nursing care, intermediate nursing care, and custodial care to facilitate comparison among long-term care products;

(4) require long-term care benefit plan issuers to offer coverage for home health care benefits;

(5) require that rates may not be increased for a covered individual unless:

(A) the covered individual requests and receives a change of benefits; or

(B) the increase applies to all members of the class to which the individual has been assigned by the benefit plan issuer; or

(6) require a benefit plan issuer to pay for a service covered by the benefit plan that is provided by an institution licensed to provide that service under Chapter 242, Health and Safety Code.

(e) Rules adopted under this section must include requirements no less favorable than the minimum standards of benefits for long-term care benefit plans adopted in any model laws or regulations relating to minimum standards for benefits for long-term care benefit plans and required by federal law.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.052. PREEXISTING CONDITIONS. (a) A long-term care benefit plan may not contain a provision that denies coverage for a claim for losses incurred more than six months after the effective date of coverage for a preexisting condition.

(b) A long-term care benefit plan may not define a preexisting condition more restrictively than as a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(c) The commissioner by rule may:

(1) establish additional reasonable regulation of preexisting conditions consistent with this section and Section

1651.051; and

(2) extend a limitation period specified in this section as to a specific age group category in a specific benefit plan form if the commissioner finds that the extension is in the best interest of the public.

(d) Rules adopted under this section must comply with Section 1651.051(e).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.053. LOSS RATIO STANDARDS. (a) A long-term care benefit plan must provide a benefit plan holder with benefits that are reasonable in relation to the rates charged.

(b) The commissioner shall adopt reasonable rules to establish minimum standards for loss ratios of long-term care benefit plans on the basis of:

- (1) incurred claims experience;
- (2) earned premiums;
- (3) the period for which rates are computed to provide coverage;
- (4) experienced and projected trends;
- (5) concentration of experience within early benefit plan duration;
- (6) expected claim fluctuations;
- (7) experience refunds;
- (8) adjustments;
- (9) dividends;
- (10) renewability features;
- (11) all relevant expense factors;
- (12) interest;
- (13) reserves;
- (14) mix of business by risk classification; and
- (15) product features otherwise affecting claims experience.

(c) Annually, each entity providing a long-term care benefit plan in this state shall:

- (1) file its rates, rating schedule, and supporting documentation to demonstrate compliance with the applicable loss

ratio standards of this state; and

(2) comply with any other filing requirement adopted by the commissioner relating to loss ratios.

(d) Rules adopted under this section shall be no less favorable to the holders of long-term care benefit plans than any model laws, rules, and regulations adopted in connection with minimum standards for benefits for long-term care benefit plans.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.054. NOTICE OF RIGHT TO REFUND. (a) In this section, "applicant" means:

(1) in the case of an individual long-term care benefit plan, the individual who seeks to contract for insurance or other health benefits; and

(2) in the case of a group long-term care benefit plan, the proposed certificate holder.

(b) A long-term care benefit plan must have a notice prominently printed on the first page of or attached to the benefit plan document.

(c) The notice must state in substance that, if the applicant is not satisfied for any reason after examining the benefit plan document, the applicant is entitled to:

(1) return the document not later than the 30th day after the date of its delivery; and

(2) have any premium refunded.

(d) The long-term care benefit plan issuer shall pay in a timely manner the refund directly to the individual or entity that paid the premium.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Sec. 1651.055. RATE STABILIZATION. (a) The commissioner shall adopt rules to stabilize long-term care premium rates by:

(1) ensuring that:

(A) initial rates for long-term care benefit plan forms are adequate; and

(B) any rate schedule increases for long-term care benefit plans made after issuance of the plans are justified,

adequate, and reasonable in relation to benefits provided to plan holders;

(2) requiring any appropriate plan terms;

(3) imposing penalties on insurers or other entities subject to this chapter that violate a rule adopted under this section; and

(4) protecting plan holders affected by a rate schedule increase.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 432 (S.B. 1492), Sec. 1, eff. September 1, 2017.

(c) In adopting rules under this section, the commissioner may exempt long-term care benefit plans from the requirements of Sections 1651.053(a), (b), and (d).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 4, eff. April 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 432 (S.B. 1492), Sec. 1, eff. September 1, 2017.

Sec. 1651.056. REVIEW; APPROVAL OR DISAPPROVAL OF PREMIUM RATES. (a) A long-term care premium rate may not be used until the rate has been filed with the department and approved by the commissioner.

(b) The commissioner may disapprove a long-term care premium rate that is not actuarially justified or does not comply with standards established under this chapter or adopted by rule by the commissioner.

(c) An insurer who obtains the commissioner's approval of an increase of a long-term care premium rate under Subsection (a) shall:

(1) notify policyholders of the scheduled rate increase at least 45 days prior to the date that the policyholder is required to make a premium payment at the increased rate; and

(2) provide contingent nonforfeiture benefits consistent with nationally recognized models and rules adopted by the commissioner.

Added by Acts 2009, 81st Leg., R.S., Ch. 1374 (S.B. 963), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

Sec. 1651.101. DEFINITIONS. In this subchapter:

(1) "Approved plan" means a long-term care benefit plan that is approved by the department under this subchapter.

(2) "Dollar-for-dollar asset disregard" and "asset protection" have the meanings assigned by Section 32.251, Human Resources Code.

(3) "Medical assistance program" means the medical assistance program established under Chapter 32, Human Resources Code.

(4) "Partnership for long-term care program" means the program established under Subchapter F, Chapter 32, Human Resources Code, and this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 3, eff. March 1, 2008.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(13), eff. September 1, 2009.

Sec. 1651.102. APPLICABILITY. Except to the extent of a conflict, Subchapters A and B apply to a plan issued in accordance with this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 3, eff. March 1, 2008.

Sec. 1651.103. ASSISTANCE OF DEPARTMENT. The department shall assist the Health and Human Services Commission as necessary for the commission to perform its duties and functions with respect to the administration of the partnership for long-term care program.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 3, eff. March 1, 2008.

Sec. 1651.104. LONG-TERM CARE INSURANCE POLICY FOR PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The commissioner, in

consultation with the Health and Human Services Commission, shall adopt minimum standards for a long-term care benefit plan that may qualify as an approved plan under the partnership for long-term care program. The standards must be consistent with provisions governing the expansion of a state long-term care partnership program established under the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 3, eff. March 1, 2008.

Sec. 1651.105. REQUIRED TRAINING. (a) Each individual who sells a long-term care benefit plan under the partnership for long-term care program must complete training and demonstrate evidence of an understanding of these plans and how the plans relate to other public and private coverage of long-term care.

(b) Each long-term care benefit plan issuer that offers a plan under the partnership for long-term care program shall certify to the commissioner, in the form required by the commissioner, that each individual who sells the plan on behalf of the issuer complies with the requirements of this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 3, eff. March 1, 2008.

Sec. 1651.106. EFFECT OF DISCONTINUATION OF PROGRAM ON POLICY. If the partnership for long-term care program is discontinued, an individual who purchased an approved plan before the date the program is discontinued remains eligible to receive dollar-for-dollar asset disregard and asset protection under the medical assistance program.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 3, eff. March 1, 2008.

Sec. 1651.107. RULES. The commissioner may adopt rules as necessary to implement this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 795 (S.B. 22), Sec. 3, eff. March 1, 2008.